

AMENDED IN ASSEMBLY APRIL 27, 2010

AMENDED IN ASSEMBLY APRIL 26, 2010

AMENDED IN ASSEMBLY APRIL 7, 2010

CALIFORNIA LEGISLATURE—2009–10 REGULAR SESSION

ASSEMBLY BILL

No. 2613

Introduced by Assembly Member Beall

February 19, 2010

An act to amend Section 53069.4 of the Government Code, relating to local government.

LEGISLATIVE COUNSEL'S DIGEST

AB 2613, as amended, Beall. Local government: fines and penalties: assessments.

Existing law authorizes the legislative body of a local agency to make any violation of any ordinance enacted by the local agency subject to an administrative fine or penalty, as specified.

This bill would authorize a city, county, or city and county to, after notice and public hearing, specially assess any fines or penalties not paid after demand by the city, county, or city and county against real property owned by the person owing those fines or penalties. The bill would provide that the assessment may be collected at the same time and in the same manner as ordinary county taxes are collected, and shall be subject to the same penalties and the same procedure and sale in case of delinquency as are provided for ordinary county taxes, and would authorize the ~~local agency~~ *city, county, or city and county* to record a lien against the property. This bill would authorize a ~~city, county, or city and county~~ *local agency* to appoint a hearing officer to hear and

decide issues regarding ordinance violations and the imposition of administrative fines and penalties.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 53069.4 of the Government Code is
2 amended to read:
3 53069.4. (a) (1) The legislative body of a ~~city, county, or city~~
4 ~~and county local agency~~, as the term “local agency” is defined in
5 Section 54951, may by ordinance make any violation of any
6 ordinance enacted by the ~~city, county, or city and county local~~
7 ~~agency~~ subject to an administrative fine or penalty. The ~~city,~~
8 ~~county, or city and county local agency~~ shall set forth by ordinance
9 the administrative procedures that shall govern the imposition,
10 enforcement, collection, and administrative review by the ~~city,~~
11 ~~county, or city and county local agency~~ of those administrative
12 fines or penalties. Where the violation would otherwise be an
13 infraction, the administrative fine or penalty shall not exceed the
14 maximum fine or penalty amounts for infractions set forth in
15 subdivision (b) of Section 25132 and subdivision (b) of Section
16 36900.
17 (2) (A) The administrative procedures set forth by ordinance
18 adopted by the ~~city, county, or city and county local agency~~
19 pursuant to paragraph (1) shall provide for a reasonable period of
20 time, as specified in the ordinance, for a person responsible for a
21 continuing violation to correct or otherwise remedy the violation
22 prior to the imposition of administrative fines or penalties, when
23 the violation pertains to building, plumbing, electrical, or other
24 similar structural or zoning issues, that do not create an immediate
25 danger to health or safety.
26 (B) Pursuant to Chapter 14 (commencing with Section 27720)
27 of Part 3 of Division 1 of Title 3, the administrative procedures
28 adopted by ordinance pursuant to paragraph (1) may authorize the
29 appointment of one or more hearing officers to hear and decide
30 issues regarding ordinance violations and the imposition of
31 administrative fines or penalties.
32 (C) A city, county, or city and county may, by ordinance,
33 combine the administrative procedures adopted pursuant to

1 paragraph (1) with nuisance abatement procedures adopted by
2 ordinance pursuant to Section 25845.

3 (3) (A) If the owner of real property fails to pay fines or
4 penalties upon demand by ~~the a~~ city, county, or city and county,
5 the city, county, or city and county may, after notice and public
6 hearing, order the fines or penalties to be specially assessed against
7 the parcel if the fines or penalties are related to ordinance violations
8 on the real property upon which the fines or penalties would be
9 specially assessed. The assessment may be collected at the same
10 time and in the same manner as ordinary county taxes are collected,
11 and shall be subject to the same penalties and the same procedure
12 and sale in case of delinquency as are provided for ordinary county
13 taxes. All laws applicable to the levy, collection, and enforcement
14 of county taxes are applicable to the special assessment.

15 (B) If a city, county, or city and county specially assesses the
16 cost of the administrative fines or penalties against the parcel, the
17 city, county, or city and county also may cause a notice of
18 abatement lien to be recorded. The notice shall, at a minimum,
19 identify the record owner or possessor of property, set forth the
20 last known address of the record owner or possessor, set forth the
21 date upon which assessment was ordered by the city, county, or
22 city and county, and include a description of the real property
23 subject to the lien and the amount of the lien.

24 (C) If ~~the a~~ city, county, or city and county does not cause the
25 recordation of a notice of lien pursuant to subdivision (B), and any
26 real property on which the assessment has been imposed has been
27 transferred or conveyed to a bona fide purchaser for value, or a
28 lien on a bona fide encumbrancer for value has been created and
29 attaches to that property, prior to ~~the a~~ date on which the first
30 installment of county taxes would become delinquent, then the
31 assessment shall not result in a lien against that real property but
32 shall be transferred to the unsecured roll for collection.

33 (D) Recordation of a notice of lien pursuant to subparagraph
34 (B) has the same effect as recordation of an abstract of a money
35 judgment recorded pursuant to Article 2 (commencing with Section
36 697.310) of Chapter 2 of Division 2 of Title 9 of Part 2 of the Code
37 of Civil Procedure. The lien created has the same priority as a
38 judgment lien on real property and continues in effect until
39 released. Upon order of the city, county, or city and county, or any
40 officer authorized by the city, county, or city and county to act on

1 its behalf, a lien created under this section may be released or
2 subordinated in the same manner as a judgment lien on real
3 property may be released or subordinated.

4 (b) (1) Notwithstanding the provisions of Section 1094.5 or
5 1094.6 of the Code of Civil Procedure, within 20 days after service
6 of the final administrative order or decision of the ~~city, county, or~~
7 ~~city and county~~ *local agency* is made pursuant to an ordinance
8 enacted in accordance with this section regarding the imposition,
9 enforcement or collection of the administrative fines or penalties,
10 a person contesting that final administrative order or decision may
11 seek review by filing an appeal to be heard by the superior court,
12 where the same shall be heard de novo, except that the contents
13 of the ~~city's, county's, or city and county's~~ *local agency's* file in
14 the case shall be received in evidence. A proceeding under this
15 subdivision is a limited civil case. A copy of the document or
16 instrument of the ~~city, county, or city and county~~ *local agency*
17 providing notice of the violation and imposition of the
18 administrative fine or penalty shall be admitted into evidence as
19 prima facie evidence of the facts stated therein. A copy of the
20 notice of appeal shall be served in person or by first-class mail
21 upon the local agency by the contestant.

22 (2) The fee for filing the notice of appeal shall be as specified
23 in Section 70615. The court shall request that the ~~city's, county's,~~
24 ~~or city and county's~~ *local agency's* file on the case be forwarded
25 to the court, to be received within 15 days of the request. The court
26 shall retain the fee specified in Section 70615 regardless of the
27 outcome of the appeal. If the court finds in favor of the contestant,
28 the amount of the fee shall be reimbursed to the contestant by the
29 ~~city, county, or city and county~~ *local agency*. Any deposit of the
30 fine or penalty shall be refunded by the ~~city, county, or city and~~
31 ~~county~~ *local agency* in accordance with the judgment of the court.

32 (3) The conduct of the appeal under this section is a subordinate
33 judicial duty that may be performed by traffic trial commissioners
34 and other subordinate judicial officials at the direction of the
35 presiding judge of the court.

36 (c) If no notice of appeal of the ~~city's, county's, or city and~~
37 ~~county's~~ *local agency's* final administrative order or decision is
38 filed within the period set forth in this section, the order or decision
39 shall be deemed confirmed.

1 (d) If the fine or penalty has not been deposited and the decision
2 of the court is against the contestant, the ~~city, county, or city and~~
3 ~~county~~ *local agency* may proceed to collect the penalty pursuant
4 to the procedures set forth in its ordinance.

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